

NEWS IN BRIEF

additive" found to cause cancer in experimental animals. Although DDT has been found to induce cancer in test animals, the court said that, in the meaning of the statute, the term "food additives" does not embrace chemical pesticides.)

HEW had rejected the EDF petition on the grounds that there was no "practicable method" of removing residues of DDT—a long persistent chemical now found throughout the world environment—from farm commodities. The court held, however, that several practical alternatives for enforcing a zero tolerance would be available—for instance, exemptions might be allowed for residues attributable to DDT applications made before the zero tolerance was established, or the zero tolerance limit might be set as a goal to be achieved progressively over time. According to the court, if DDT is shown to be a carcinogen, yet the secretary reaffirms existing tolerances, he will "be required to explain the basis on which he determined such tolerances to be 'safe.'"

HEW will not seek a review of the ruling and is moving to comply with it. If the Department of Agriculture also elects not to seek a review, two questions will remain: Will the agencies, on their appraisal of the hazards of continued use of DDT, order the total embargo sought by the petitioners on use of this chemical? And, if not, will the court, acting on its own appraisal of the evidence, order such an embargo?

The tenor of the court's decisions suggests that, if the use of DDT is not forbidden altogether, the court will look hard at the agencies' reasons for not placing this pesticide under a total ban. Usually, however, courts uphold administrative decisions unless those decisions are plainly arbitrary or capricious. Moreover, the Federal Insecticide, Fungicide and Rodenticide Act and the Food, Drug and Cosmetic Act both say that departmental findings with respect to the registration of pesticides and the setting of tolerances shall be sustained by the courts if supported by "substantial evidence." In law, evidence can be "substantial" without being preponderant or conclusive, and substantial evidence supporting each of two or more opposing viewpoints sometimes may be drawn from one set of facts.

Whatever the DDT cases' ultimate outcome, the Court of Appeals, in clear and emphatic language, has held that EDF and its fellow petitioners may in-

tervene in pesticide registration cases and that their petitions must be acted on expeditiously. The Department of Agriculture had argued that only "registrants"—that is, pesticide manufacturers—had the right to challenge its decisions. Moreover, it contended that the issues in dispute were still under administrative review and were not ripe for judicial review. The court not only rejected those arguments but held that, even though the statute says the secretary "may" suspend the registration of a pesticide, this merely permissive language does not put his decision beyond judicial scrutiny.

(The Olin Corporation announced Monday that it is closing its DDT plant near Huntsville, Alabama. Although EDF and others had brought suit to stop Olin from discharging DDT-laden wastes into waters leading to Wheeler National Wildlife Refuge, Olin had decided earlier to close the plant.)

On 23 April, the U.S. District Court for the District of Columbia acted in the Alaska pipeline case in response to a motion by EDF, the Friends of the Earth, and the Wilderness Society. The court enjoined Secretary of the Interior Walter J. Hickel from granting a permit for construction of a haul road across the public domain from the Yukon River to the Prudhoe Bay oil fields along the proposed pipeline right-of-way. The injunction is meant to forestall all construction activities by "TAPS" (Trans Alaska Pipeline System) until the court rules on the plaintiff's suit to block construction of the pipeline itself.

Major Test for NEPA

The pipeline project has posed a major test of the National Environmental Policy Act. NEPA was passed by Congress late last year, partly with a view to seeing that projects to be built under federal permit or auspices are not approved and carried out before all potential environmental problems have been investigated. Secretary Hickel, former governor of Alaska and an advocate of opening up Alaska's north country to economic development, has said that the pipeline right-of-way will be granted once design stipulations for the pipeline have been worked out. But, while the project involves difficult engineering problems, the ecological questions it raises are even more complex. For instance, if the pipeline is mounted above ground for much of its length to avoid having it founder in the permafrost, what will the effect be on Alaska's

● **CBW POLICIES:** A subcommittee of the House Foreign Affairs Committee has recommended that the Senate ratify the Geneva Protocol of 1925 prohibiting chemical-biological warfare but leave open the question of using tear gas and herbicides in warfare. The report of the Subcommittee on National Security Policy and Scientific Developments, based on hearings held last winter, also recommends that biological warfare facilities be turned to peaceful pursuits, and that the United States continue to seek a treaty totally banning biological weapons.

● **NILE DELTA EROSION:** Since the Aswan High Dam is expected to increase the already severe coastal erosion of the Nile Delta area, the United Arab Republic has asked the United Nations Educational, Scientific and Cultural Organization (Unesco) for help in remedying the situation. As a first step, Unesco will study the causes of erosion and prepare plans for coastal protection works.

● **ABORTION LAW VETOED:** Maryland Governor Marvin Mandel has vetoed a bill that would have removed all state restrictions on abortions in Maryland. In defense of his actions the Governor, who is a candidate for the governorship in the November elections, stated that he had based his decision on legal grounds alone. Governor Mandel cited the following reasons for vetoing the bill: (i) the bill contained no residency requirement; (ii) the bill made no provision for notifying the husband of the woman (or the parents of the minor girl) of the proposed abortion; (iii) the bill would not have prohibited an abortion in the eighth or ninth month of pregnancy.

● **NSF SPONSORS ALASKAN PIPELINE STUDY:** The National Science Foundation has announced that it will sponsor an urgent study of the ecological effects of the trans-Alaskan pipeline and of accelerated development of Alaska's North Slope. A team of scientists from seven institutions will investigate the permafrost, plants and animals, and snow cover of the area; the team will also install a test section of a heated pipeline, similar to the real pipeline. The study will last 1 year, and will cost \$300,000.